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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues Against:

Case No. 2013-1

13 **LINDA KAY GRAVENSTEIN**
aka LINDA WILLARD, aka LINDA DIOS ,
14 **aka LINDA VARNER**

STATEMENT OF ISSUES

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Statement of Issues solely
19 in her official capacity as the Interim Executive Officer of the Board of Registered Nursing
20 ("Board"), Department of Consumer Affairs.

21 2. On or about September 30, 2011, the Board received an application for a registered
22 nurse license from Linda Kay Gravenstein aka Linda Willard, aka Linda Dios, aka Linda Varner
23 ("Respondent"). On or about September 18, 2011, Respondent certified under penalty of perjury
24 to the truthfulness of all statements, answers, and representations in the application. The Board
25 denied the application on December 30, 2011.

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STATUTORY PROVISIONS

3. Business and Professions Code ("Code") section 2736 provides, in pertinent part, that the Board may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under section 480 of that Code.

4. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct . . .

....

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof . . .

5. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving the prescription, consumption, or self administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof . . .

6. Code section 2765 states:

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a registered nurse is deemed to be a conviction within the meaning of this article. The board may order the license or certificate suspended or revoked, or may decline to issue a license or certificate, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting

1 probation is made suspending the imposition of sentence, irrespective of a subsequent
2 order under the provisions of Section 1203.4 of the Penal Code allowing such person
3 to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside
4 the verdict of guilty, or dismissing the accusation, information or indictment.

5 7. Code section 480 states, in pertinent part:

6 (a) A board may deny a license regulated by this code on the grounds that
7 the applicant has one of the following:

8 (1) Been convicted of a crime. A conviction within the meaning of this
9 section means a plea or verdict of guilty or a conviction following a plea of nolo
10 contendere. Any action that a board is permitted to take following the establishment
11 of a conviction may be taken when the time for appeal has elapsed, or the judgment
12 of conviction has been affirmed on appeal, or when an order granting probation is
13 made suspending the imposition of sentence, irrespective of a subsequent order under
14 the provisions of Section 1203.4 of the Penal Code.

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16 (3)(A) Done any act that if done by a licentiate of the business or
17 profession in question, would be grounds for suspension or revocation of license.

18 (B) The board may deny a license pursuant to this subdivision only if the
19 crime or act is substantially related to the qualifications, functions, or duties of the
20 business or profession for which application is made . . .

21 8. Health and Safety Code section 11170 states that no person shall prescribe,
22 administer, or furnish a controlled substance for himself.

23 CONTROLLED SUBSTANCE

24 9. "Methamphetamine" is a Schedule II controlled substance as designated by Health
25 and Safety Code section 11055, subdivision (d)(2).

26 FIRST CAUSE FOR DENIAL

27 (Criminal Conviction)

28 10. Respondent's application is subject to denial pursuant to Code sections 2736, 2761,
subdivision (f), and 480, subdivisions (a)(1) and (a)(3)(A), in that on or about March 26, 2010, in
the criminal proceeding titled *State of Kansas v. Linda K. Gravenstein* (Dist. Ct. Douglas County,
2010, Case No. 2009-CR-001882), Respondent pled guilty to violating K.S.A. 8-1567,
subdivision (a)(3) (driving under the influence of alcohol or drugs), a misdemeanor. The incident
upon which Respondent's conviction is based occurred on or about November 19, 2009.

1 **SECOND CAUSE FOR DENIAL**

2 **(Self-Administration of a Controlled Substance)**

3 11. Respondent's application is subject to denial pursuant to Code sections 2736, 2761,
4 subdivision (a), 2762, subdivision (a), and 480, subdivision (a)(3)(A), in that in and between 2000
5 and 2005, Respondent self-administered the controlled substance methamphetamine without
6 lawful authority therefor, as set forth in subparagraph 12 (b) below.

7 **THIRD CAUSE FOR DENIAL**

8 **(Use of Alcoholic Beverages and Controlled Substances to an Extent**
9 **or in a Manner Dangerous or Injurious to Oneself, Others, and the Public)**

10 12. Respondent's application is subject to denial pursuant to Code sections 2736, 2761,
11 subdivision (a), 2762, subdivision (b), and 480, subdivision (a)(3)(A), as follows:

12 a. On or about November 19, 2009, Respondent consumed alcoholic beverages to an
13 extent or in a manner dangerous or injurious to herself, others, and the public, as set forth in
14 paragraph 10 above.

15 b. In and between 2000 and 2005, Respondent used the controlled substance
16 methamphetamine to an extent or in a manner dangerous or injurious to herself and/or others as
17 follows: Respondent used methamphetamine regularly from 2000 to 2005 and towards the end of
18 2005, was using the drug daily and went through a "gram a week".

19 **FOURTH CAUSE FOR DENIAL**

20 **(Conviction Related to the Consumption of Alcoholic Beverages)**

21 13. Respondent's application is subject to denial pursuant to Code sections 2761,
22 subdivision (a), 2762, subdivision (c), and 480, subdivision (a)(3)(A), in that on or about March
23 26, 2010, Respondent was convicted of a criminal offense involving the consumption of alcoholic
24 beverages, as set forth in paragraph 10 above.

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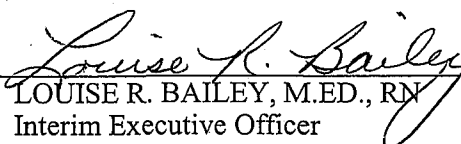
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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Denying the application of Linda Kay Gravenstein aka Linda Willard, aka Linda Dios, aka Linda Varner for a registered nurse license;
2. Taking such other and further action as deemed necessary and proper.

DATED: July 2, 2012


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

SA2012105064